

AN ORDINANCE amending Chapter 17 of the City Code of Fort Wayne by adding a new Article XV. entitled "Towing Delinquent Vehicles."

SECTION 1. Chapter 17 of the Code of the City of Fort Wayne is hereby amended, effective January 1, 1990, by adding a new Article XV, to read as follows:

ARTICLE XV. TOWING DELINQUENT VEHICLES

Sec. 17-125. Definitions.

As used in this article the following words and phrases shall have the meanings ascribed in this section unless the context of their usage clearly indicates another meaning:

a) Appearance means either:

- (1) The entry of an appearance, in person or through legal counsel, in the City Violations Bureau to contest a parking citation; or
- (2) The uncontested disposition of a parking citation in good and sufficient funds received by the Violations Clerk in the applicable amount established by the Common Council pursuant to I.C. 33-6-3-1 for uncontested payment of the fine for the issued parking citation

b) Delinquent vehicle means any vehicle on which three (3) or more unresolved parking citations are outstanding, which were issued during the time it has been registered to or otherwise held by the owner, at least one (1) of which citations must have been issued after January 1, 1990.

c) Delinquent vehicle list means the current delinquent vehicle list as maintained by the Violations Clerk under section 17-130 of this Code.

d) Officer means any police officer employed by the City and any other City employee, whether a police officer or not, who is designated by the Board of Public Works and Safety to cause vehicles to be towed under this article.

e) Owner means the person(s) registered with the state as the present owner(s) of a vehicle in the most current registration records available to the City.

f) Parking citation means a citation, returnable to the City Violations Bureau, issued for the alleged violation of any City ordinance regarding the parking of vehicles.



- 1           g) Unresolved, with respect to a "parking citation,"  
2           means a citation issued more than thirty (30) days  
3           previously which has not been cleared by an  
4           appearance.
- 5           h) Vehicle means a "vehicle" as that term is defined  
6           in section 17.1 of this Code.
- 7           i) Violations clerk means the individual appointed by  
8           the Common Council to be the administrator of the  
9           City Violations Bureau and those deputies or other  
10          employees as said individual may designate to  
11          perform any function under this article.

12          Sec. 17-129. Purpose.

13          Pursuant to the provisions of this article an officer  
14          may cause a delinquent vehicle designated on the  
15          delinquent vehicle list to be towed.

16          Sec. 17-130. Delinquent Vehicle List.

17          (a) The Violations Clerk shall be responsible for  
18          creating and maintaining the delinquent vehicle list.

19          (b) A delinquent vehicle may be placed on the  
20          delinquent vehicle list after notice has been issued as  
21          provided in subsection (c), and a hearing, if  
22          requested, under subsection (d).

23          (c) At least fifteen (15) days prior to placing a  
24          delinquent vehicle on the delinquent vehicle list the  
25          Violations Clerk shall mail a notice to the owner, at  
26          the address stated on the most current registration  
27          records available to the City from the state, or any  
28          more current address of which the Violations Clerk or  
29          chief city marshal has actual notice, by first-class  
30          United States mail, postage prepaid. The notice shall  
31          set forth:

- 32          (1) The make, year, model, license plate number and  
            identification number of the alleged delinquent  
            vehicle;
- (2) A date certain on which the delinquent vehicle  
            will be subject to placement on the delinquent  
            vehicle list;
- (3) A list of the three (3) or more alleged unresolved  
            parking citations, including the citation number,  
            date, time, place of the violation, and the nature  
            of the violation.
- (4) That the owner may avoid the vehicle's being  
            placed on the delinquent vehicle list by making an  
            appearance on the unresolved parking citations;
- (5) The name, mailing address (and street address if  
            different), and telephone number of a city office  
            or agency that may be contacted for a hearing if  
            any of the alleged unresolved parking citations  
            has been resolved by appearance, or if the  
            recipient was not the owner of the vehicle when  
            any of the alleged unresolved parking citations  
            was issued; and



(6) That administrative fees, and towing/storage fees may be payable to obtain the release of a vehicle towed pursuant to this article in addition to appearance on any unresolved parking citations.

The notice required under this section may be mailed for a vehicle that is not yet a delinquent vehicle, provided that there are already two (2) unresolved parking citations and that a third parking citation (which shall also be specified in the notice) will become unresolved if an appearance is not made thereon by the date specified for placement of the vehicle on the delinquent vehicle list.

(d) After expiration of the date certain provided in the notice issued under subsection (c), the Violations Clerk shall review the records to ensure that the alleged unresolved citations have not been resolved by appearance, and that no information has been received indicating that the notice was erroneous. The Violations Clerk shall not have the authority to adjudicate any parking citation; however, he shall meet with any person desiring to present evidence that a notice given under subsection (c) is erroneous, shall afford the person an opportunity to present any relevant evidence on the matter, and shall mail or otherwise furnish a written notice to the person of his decision.

If the request for a hearing is received by the Violations Clerk before the date specified in the notice for placement of the vehicle on the delinquent vehicle list, then the Violations Clerk shall afford the applicant an opportunity for a hearing prior to placing the vehicle on the delinquent vehicle list, and if, the applicant timely appears for the hearing as scheduled by the Violations Clerk, shall furnish the applicant written notice of his decision prior to placing the vehicle on the delinquent vehicle list.

(e) Once a vehicle has been placed on the delinquent vehicle list it shall not be removed from the list unless and until:

- (1) All unresolved parking citations issued during the time it has been registered to or otherwise held by the owner are resolved by appearance;
- (2) The Violations Clerk receives reliable information that title to the vehicle has been transferred; or
- (3) The Violations Clerk determines that the placement of the vehicle on the delinquent vehicle list was erroneous.

#### Sec. 17-131. Towing Procedures.

(a) An officer may cause any delinquent vehicle on the current delinquent vehicle list then parked, lawfully or unlawfully upon any street or highway within the City or upon any other property under the ownership or control of the City, to be towed.

(b) At the time of towing a vehicle under this article the officer shall:



- (1) Check or cause to be checked the delinquent vehicle list to ensure that the vehicle is listed thereon;
- (2) Check or cause to be checked the most current vehicle registration records available to the City to ensure that the ownership of the vehicle is not reflected to have changed from that specified on the delinquent vehicle list;
- (3) Notify the police desk sergeant and the Communications Department so that they may respond promptly to any inquiry about the vehicle's disappearance.
- (c) A vehicle may be towed at any time on any day, provided that a hearing officer is then on duty to conduct any hearing requested pursuant to section 17-133 of this Code, and that a hearing officer will remain on duty for such purpose until at least two (2) hours after the time the vehicle is towed.
- (d) Vehicles towed shall be taken to a storage lot operated by or under contract with the City, which has an attendant on duty for the release of vehicles on a twenty-four (24) hours per day, seven (7) days a week basis.

**Sec. 17-132. Fees, Release.**

Except as provided in section 17-133 of this Code, the claimant of a vehicle may not secure the release of the vehicle until an appearance has been made on all unresolved parking citations relating to the vehicle which were issued while the vehicle was owned by the person who owned the vehicle at the time it is towed hereunder, and the claimant has paid the following fees as applicable:

- (1) An administrative fee, if the vehicle has been towed of twenty-five dollars (\$25.00) to defray the City's administrative costs in placing the vehicle on the delinquent vehicle list and related expenses under this article.
- (2) A towing/storage fee, if the vehicle has been towed, of fifty dollars (\$50.00), plus five dollars (\$5.00) for each twenty-four (24) hours or portion thereof the vehicle remains in storage from the time of its initial receipt at the storage lot, to defray the City's towing and storage costs.

Towed vehicles not redeemed within the thirty (30) days shall be subject to disposition in the same manner as provided under state law or City ordinance for the disposition of abandoned vehicles.

No person shall be permitted to claim a vehicle without proof of identity. If the person claiming the vehicle is not the owner or a family member residing at the same address as the owner, based upon the most current vehicle registration data available to the City, then proof shall also be required that the claimant is the owner or is redeeming the vehicle with the consent of the owner.



Sec. 17-133. Hearing.

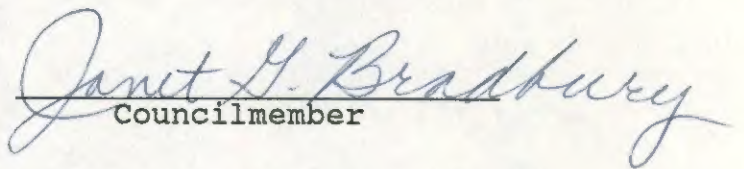
- a) The Violations Clerk shall designate one (1) or more persons to act as hearing officers and conduct post-deprivation hearings for persons whose vehicles have been towed under this article.
- b) Hearings shall be conducted on a first-come, first-served basis without the necessity of a prior appointment in the office of the Violations Clerk from 8:00 a.m. to 5:00 p.m., Monday through Friday, City-observed holidays excepted, and at such additional times, if any, as the Violations Clerk may specify.
- c) The applicant may secure release of the vehicle pending the hearing by making an appearance on the unresolved parking citations and posting a bond for the administrative and towing/storage fees prescribed in section 17-132 of this Code, if applicable. If a bond is posted, then a hearing may then be scheduled for a date and time certain, and the vehicle shall be released.
- d) The hearing officer shall be a person who is not associated with the maintenance of the delinquent vehicle list, nor shall the hearing officer hear any appeal in which he has personally participated in any decision relating to the towing of the vehicle.
- e) The only issues before the hearing officer will be whether or not the vehicle was a delinquent vehicle owned by the person designated on the delinquent vehicle list at the time it was towed under this article and whether the City has complied with this article in placing it on the delinquent vehicle list and causing it to be towed. The hearing officer shall have no authority to adjudicate any unresolved parking citation. The hearing officer may consider any competent evidence, including, but not limited to, public records and testimony from the applicant and City employees. The applicant may be represented by legal counsel and may cross-examine any witness presented by the City. Each applicant must appear at the hearing and shall be subject to examination on any matter relevant to the issues before the hearing officer. The hearing officer shall announce and record his decision within one (1) hour following the conclusion of the hearing.
- f) If the hearing officer determines that the vehicle was not a delinquent vehicle owned by the person designated on the delinquent vehicle list at the time it was towed under this article, or that the City has not complied with this article in placing it on the delinquent vehicle list and causing it to be towed, then the vehicle shall be ordered released without payment of the fees prescribed in section 17-132. A daily storage fee of five dollars (\$5.00) shall be payable for each twenty-four hour period or portion thereof that a towed vehicle remains in storage after the hearing officer orders its release if not reclaimed within twenty-four (24) hours after the hearing officer orders its release. If a bond had been posted for the administrative or towing/storage fees



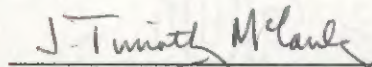
prescribed in section 17.132 of this Code, it shall be ordered to be refunded to the applicant.

- g) A hearing under this section shall be requested before the sixth day following the initial towing of the vehicle by the city. A hearing requested thereafter will be granted if the City has not disposed of the vehicle, provided the owner must pay the daily storage fee of five dollars (\$5.00) for each day after the sixth day until the vehicle is reclaimed, regardless of the hearing officer's determination.

SECTION 2. That this Ordinance shall be in full force and effect on January 1, 1990, and after any and all necessary approval by the Mayor and after publication of same

  
Councilmember

APPROVED AS TO FORM  
AND LEGALITY

  
J. Timothy McCaulay, City Attorney



Read the first time in full and on motion by Bradbury, seconded by Delaney, and duly adopted, read the second time by title and referred to the Committee on Regulation (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Conference Room 128, City-County Building, Fort Wayne, Indiana, on \_\_\_\_\_, the \_\_\_\_\_, day of \_\_\_\_\_, 19\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M., E.S.T.

DATED: 9-26-89

Sandra E. Kennedy  
SANDRA E. KENNEDY, CITY CLERK

Read the third time in full and on motion by \_\_\_\_\_, seconded by \_\_\_\_\_, and duly adopted, placed on its passage. PASSED ☒ LOST ☐ by the following vote:

	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>
<u>TOTAL VOTES</u>	_____	_____	_____	_____
<u>BRADBURY</u>	_____	_____	_____	_____
<u>BURNS</u>	_____	_____	_____	_____
<u>EDMONDS</u>	_____	_____	_____	_____
<u>GIAQUINTA</u>	_____	_____	_____	_____
<u>HENRY</u>	_____	_____	_____	_____
<u>LONG</u>	_____	_____	_____	_____
<u>REDD</u>	_____	_____	_____	_____
<u>SCHMIDT</u>	_____	_____	_____	_____
<u>TALARICO</u>	_____	_____	_____	_____

DATED: \_\_\_\_\_

Sandra E. Kennedy  
SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (ANNEXATION) (APPROPRIATION) (GENERAL) (SPECIAL) (ZONING MAP) ORDINANCE RESOLUTION NO. \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_,

ATTEST SEAL

Sandra E. Kennedy  
SANDRA E. KENNEDY, CITY CLERK

\_\_\_\_\_  
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, at the hour of \_\_\_\_\_ o'clock \_\_\_\_\_ M., E.S.T.

Sandra E. Kennedy  
SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, at the hour of \_\_\_\_\_ o'clock \_\_\_\_\_ M., E.S.T.

Paul Helmke  
PAUL HELMKE, MAYOR



DIGEST SHEET

TITLE OF ORDINANCE GENERAL ORDINANCE

*G-85-0 9-34.*

DEPARTMENT REQUESTING ORDINANCE LAW DEPARTMENT

SYNOPSIS OF ORDINANCE PERMITS THE TOWING OF VEHICLES WITH THREE (3) or

more unresolved delinquent parking tickets.

EFFECT OF PASSAGE WILL ACCELERATE THE COLLECTION OF DELINQUENT PARKING

TICKETS.

EFFECT OF NON-PASSAGE DIFFICULTIES IN COLLECTING DELINQUENT PARKING

CITATIONS WILL CONTINUE.

MONEY INVOLVED (DIRECT COSTS, EXPENDITURES, SAVINGS) \_\_\_\_\_

ASSIGNED TO COMMITTEE (PRESIDENT) \_\_\_\_\_



Table

~~Hold~~ ~~for~~ ~~Table~~

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~~for~~  
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89  
~~for~~  
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BILL NO. G-89-09-34

REPORT OF THE COMMITTEE ON REGULATIONS

JANET G. BRADBURY, CHAIRPERSON  
DAVID C. LONG, VICE CHAIRMAN  
EDMONDS, SCHMIDT, TALARICO

WE, YOUR COMMITTEE ON Regulations TO WHOM WAS  
REFERRED AN (ORDINANCE) (~~RESOLUTION~~) amending Chapter 17  
of the City Code of Fort Wayne by adding a new Article XV entitled  
"Towing Delinquent Vehicles"  
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HAVE HAD SAID (ORDINANCE) (~~RESOLUTION~~) UNDER CONSIDERATION  
AND BEG LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID  
(ORDINANCE) (~~RESOLUTION~~) \_\_\_\_\_

<u>DO PASS</u>	<u>DO NOT PASS</u>	<u>ABSTAIN</u>	<u>NO REC</u>
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DATED:

Sandra E. Kennedy  
City Clerk